

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Golden West Cablevision, Inc.	)	File No. EB-02-TS-647
	)	
Operator of Cable System in:	)	
	)	
Wall, South Dakota	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: July 21, 2003**

**Released: July 23, 2003**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this *Order*, we grant Golden West Cablevision, Inc. ("GWC") a temporary waiver of Section 11.11(a) of the Commission's Rules ("Rules") for the above-captioned cable television system. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.<sup>1</sup>

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an

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<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ...." 47 U.S.C. § 544(g).

<sup>3</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("Second Report and Order").

exemption would be inconsistent with the statutory mandate of Section 624(g).<sup>5</sup> However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>6</sup>

3. GWC filed a request for a temporary, 45-day waiver of Section 11.11(a) for the captioned cable system on October 1, 2002. In support of its waiver request, GWC states that it installed EAS equipment for the captioned cable system which serves 12 small, rural communities with a total of approximately 2,118 subscribers. In addition to the programming the twelve communities receive from the Wall headend, eight of those communities have implemented a local school channel. GWC states that it installed EAS equipment at the Wall headend and also installed remote hub equipment in the eight communities with a local school channel in order to override the local school programming when GWC transmits an EAS alert on its system. GWC further states that after installing the remote hubs, it found that demodulators were needed for the remote hubs to function properly. Based on information provided by its vendor, GWC expects the demodulators will be shipped on October 15, 2002. GWC asserts that subscribers in the eight communities can receive EAS alerts on all programming channels except the local school channels. GWC believes it can bring the system's local school channels into EAS compliance within 45 days.

4. Based upon our review of the information submitted by GWC, we conclude that a temporary waiver of Section 11.11(a) for the captioned cable system is warranted.<sup>7</sup>

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>8</sup> Golden West Cablevision, Inc. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until November 15, 2002 for the captioned cable television system.

6. **IT IS FURTHER ORDERED** that Golden West Cablevision, Inc. place a copy of this waiver in its system file.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Golden West Cablevision, Inc., John A Prendergast, Esq., Blooston, Mordkofsky, Dickens, Duffy & Prendergast, 2120 L Street, N.W., Suite 520, Washington, D.C. 20037.

#### FEDERAL COMMUNICATIONS COMMISSION

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<sup>5</sup> *Id.* at 15512-13.

<sup>6</sup> *Id.* at 15516-15518.

<sup>7</sup> The waiver will extend from October 1, 2002, until November 15, 2002. We clarify that the waiver we are granting also encompasses the EAS testing and monitoring requirements.

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Joseph P. Casey  
Chief, Spectrum Enforcement Division  
Enforcement Bureau